

**Calendar No. 344**

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 1009**

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**AN ACT**

To repeal the prohibition on the payment of  
interest on demand deposits.

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APRIL 15, 2002

Read the second time and placed on the calendar



Calendar No. 344

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 1009**

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IN THE SENATE OF THE UNITED STATES

APRIL 10, 2002

Received

APRIL 12, 2002

Read the first time

APRIL 15, 2002

Read the second time and placed on the calendar

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**AN ACT**

To repeal the prohibition on the payment of interest on  
demand deposits.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Business Checking  
3 Freedom Act of 2002”.

4 **SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**  
5 **THORIZED.**

6       (a) **REPEAL OF PROHIBITION ON PAYMENT OF IN-**  
7 **TEREST ON DEMAND DEPOSITS.—**

8           (1) **FEDERAL RESERVE ACT.**—Section 19(i) of  
9       the Federal Reserve Act (12 U.S.C. 371a) is amend-  
10      ed to read as follows:

11      “(i) [Repealed]”.

12           (2) **HOME OWNERS’ LOAN ACT.**—The first sen-  
13      tence of section 5(b)(1)(B) of the Home Owners’  
14      Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by  
15      striking “savings association may not—” and all  
16      that follows through “(ii) permit any” and inserting  
17      “savings association may not permit any”.

18           (3) **FEDERAL DEPOSIT INSURANCE ACT.**—Sec-  
19      tion 18(g) of the Federal Deposit Insurance Act (12  
20      U.S.C. 1828(g)) is amended to read as follows:

21      “(g) [Repealed]”.

22       (b) **EFFECTIVE DATE.**—The amendments made by  
23      subsection (a) shall take effect at the end of the 2-year  
24      period beginning on the date of the enactment of this Act.

1 **SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**  
2 **THORIZED FOR ALL BUSINESSES.**

3 Section 2 of Public Law 93–100 (12 U.S.C. 1832)  
4 is amended—

5 (1) by redesignating subsections (b) and (c) as  
6 subsections (c) and (d), respectively; and

7 (2) by inserting after subsection (a) the fol-  
8 lowing:

9 “(b) Notwithstanding any other provision of law, any  
10 depository institution may permit the owner of any deposit  
11 or account which is a deposit or account on which interest  
12 or dividends are paid and is not a deposit or account de-  
13 scribed in subsection (a)(2) to make up to 24 transfers  
14 per month (or such greater number as the Board of Gov-  
15 ernors of the Federal Reserve System may determine by  
16 rule or order), for any purpose, to another account of the  
17 owner in the same institution. An account offered pursu-  
18 ant to this subsection shall be considered a transaction  
19 account for purposes of section 19 of the Federal Reserve  
20 Act unless the Board of Governors of the Federal Reserve  
21 System determines otherwise.”.

22 **SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL**  
23 **RESERVE BANKS.**

24 (a) IN GENERAL.—Section 19(b) of the Federal Re-  
25 serve Act (12 U.S.C. 461(b)) is amended by adding at  
26 the end the following new paragraph:

1           “(12) EARNINGS ON RESERVES.—

2                   “(A) IN GENERAL.—Balances maintained  
3           at a Federal reserve bank by or on behalf of a  
4           depository institution may receive earnings to  
5           be paid by the Federal reserve bank at least  
6           once each calendar quarter at a rate or rates  
7           not to exceed the general level of short-term in-  
8           terest rates.

9                   “(B) REGULATIONS RELATING TO PAY-  
10           MENTS AND DISTRIBUTION.—The Board may  
11           prescribe regulations concerning—

12                       “(i) the payment of earnings in ac-  
13                       cordance with this paragraph;

14                       “(ii) the distribution of such earnings  
15                       to the depository institutions which main-  
16                       tain balances at such banks or on whose  
17                       behalf such balances are maintained; and

18                       “(iii) the responsibilities of depository  
19                       institutions, Federal home loan banks, and  
20                       the National Credit Union Administration  
21                       Central Liquidity Facility with respect to  
22                       the crediting and distribution of earnings  
23                       attributable to balances maintained, in ac-  
24                       cordance with subsection (c)(1)(A), in a

1 Federal reserve bank by any such entity on  
 2 behalf of depository institutions.

3 “(C) DEPOSITORY INSTITUTIONS DE-  
 4 FINED.—For purposes of this paragraph, the  
 5 term ‘depository institution’, in addition to the  
 6 institutions described in paragraph (1)(A), in-  
 7 cludes any trust company, corporation orga-  
 8 nized under section 25A or having an agree-  
 9 ment with the Board under section 25, or any  
 10 branch or agency of a foreign bank (as defined  
 11 in section 1(b) of the International Banking Act  
 12 of 1978).”.

13 (b) AUTHORIZATION FOR PASS THROUGH RESERVES  
 14 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-  
 15 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by  
 16 striking “which is not a member bank”.

17 (c) CONSUMER BANKING COSTS ASSESSMENT.—

18 (1) IN GENERAL.—Section 1002 of the Finan-  
 19 cial Institutions Reform, Recovery, and Enforcement  
 20 Act of 1989 (12 U.S.C. 1811 note) is amended to  
 21 read as follows:

22 **“SEC. 1002. SURVEY OF BANK FEES AND SERVICES.**

23 “(a) ANNUAL SURVEY REQUIRED.—The Board of  
 24 Governors of the Federal Reserve System shall obtain an-  
 25 nually a sample, which is representative by type and size

1 of the institution (including small institutions) and geo-  
2 graphic location, of the following retail banking services  
3 and products provided by insured depository institutions  
4 and insured credit unions (along with related fees and  
5 minimum balances):

6 “(1) Checking and other transaction accounts.

7 “(2) Negotiable order of withdrawal and sav-  
8 ings accounts.

9 “(3) Automated teller machine transactions.

10 “(4) Other electronic transactions.

11 “(b) MINIMUM SURVEY REQUIREMENT.—The annual  
12 survey described in subsection (a) shall meet the following  
13 minimum requirements:

14 “(1) CHECKING AND OTHER TRANSACTION AC-  
15 COUNTS.—Data on checking and transaction ac-  
16 counts shall include, at a minimum, the following:

17 “(A) Monthly and annual fees and min-  
18 imum balances to avoid such fees.

19 “(B) Minimum opening balances.

20 “(C) Check processing fees.

21 “(D) Check printing fees.

22 “(E) Balance inquiry fees.

23 “(F) Fees imposed for using a teller or  
24 other institution employee.

25 “(G) Stop payment order fees.

1 “(H) Nonsufficient fund fees.

2 “(I) Overdraft fees.

3 “(J) Deposit items returned fees.

4 “(K) Availability of no-cost or low-cost ac-  
5 counts for consumers who maintain low bal-  
6 ances.

7 “(2) NEGOTIABLE ORDER OF WITHDRAWAL AC-  
8 COUNTS AND SAVINGS ACCOUNTS.—Data on nego-  
9 tiable order of withdrawal accounts and savings ac-  
10 counts shall include, at a minimum, the following:

11 “(A) Monthly and annual fees and min-  
12 imum balances to avoid such fees.

13 “(B) Minimum opening balances.

14 “(C) Rate at which interest is paid to con-  
15 sumers.

16 “(D) Check processing fees for negotiable  
17 order of withdrawal accounts.

18 “(E) Fees imposed for using a teller or  
19 other institution employee.

20 “(F) Availability of no-cost or low-cost ac-  
21 counts for consumers who maintain low bal-  
22 ances.

23 “(3) AUTOMATED TELLER TRANSACTIONS.—  
24 Data on automated teller machine transactions shall  
25 include, at a minimum, the following:

1 “(A) Monthly and annual fees.

2 “(B) Card fees.

3 “(C) Fees charged to customers for with-  
4 drawals, deposits, and balance inquiries through  
5 institution-owned machines.

6 “(D) Fees charged to customers for with-  
7 drawals, deposits, and balance inquiries through  
8 machines owned by others.

9 “(E) Fees charged to noncustomers for  
10 withdrawals, deposits, and balance inquiries  
11 through institution-owned machines.

12 “(F) Point-of-sale transaction fees.

13 “(4) OTHER ELECTRONIC TRANSACTIONS.—  
14 Data on other electronic transactions shall include,  
15 at a minimum, the following:

16 “(A) Wire transfer fees.

17 “(B) Fees related to payments made over  
18 the Internet or through other electronic means.

19 “(5) OTHER FEES AND CHARGES.—Data on  
20 any other fees and charges that the Board of Gov-  
21 ernors of the Federal Reserve System determines to  
22 be appropriate to meet the purposes of this section.

23 “(6) FEDERAL RESERVE BOARD AUTHORITY.—  
24 The Board of Governors of the Federal Reserve Sys-  
25 tem may cease the collection of information with re-

1       gard to any particular fee or charge specified in this  
2       subsection if the Board makes a determination that,  
3       on the basis of changing practices in the financial  
4       services industry, the collection of such information  
5       is no longer necessary to accomplish the purposes of  
6       this section.

7       “(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

8               “(1) PREPARATION.—The Board of Governors  
9       of the Federal Reserve System shall prepare a report  
10      of the results of each survey conducted pursuant to  
11      subsections (a) and (b) of this section and section  
12      136(b)(1) of the Consumer Credit Protection Act.

13              “(2) CONTENTS OF THE REPORT.—In addition  
14      to the data required to be collected pursuant to sub-  
15      sections (a) and (b), each report prepared pursuant  
16      to paragraph (1) shall include a description of any  
17      discernible trend, in the Nation as a whole, in a rep-  
18      resentative sample of the 50 States (selected with  
19      due regard for regional differences), and in each  
20      consolidated metropolitan statistical area (as defined  
21      by the Director of the Office of Management and  
22      Budget), in the cost and availability of the retail  
23      banking services, including those described in sub-  
24      sections (a) and (b) (including related fees and min-  
25      imum balances), that delineates differences between

1 institutions on the basis of the type of institution  
2 and the size of the institution, between large and  
3 small institutions of the same type, and any engage-  
4 ment of the institution in multistate activity.

5 “(3) SUBMISSION TO CONGRESS.—The Board  
6 of Governors of the Federal Reserve System shall  
7 submit an annual report to the Congress not later  
8 than June 1, 2004, and not later than June 1 of  
9 each subsequent year.

10 “(4) TRANSITION PROVISION.—Notwithstanding  
11 section 4(c)(3) of the Business Checking Freedom  
12 Act of 2002, the Board of Governors of the Federal  
13 Reserve System shall, on an interim basis, continue  
14 to comply with the requirements for the bank fee  
15 survey under the amendment made to this section by  
16 section 108 of the Riegle-Neal Interstate Banking  
17 and Branching Efficiency Act of 1994 for reports  
18 submitted to the Congress under this section not  
19 later than June 1, 2003, except that the Board shall  
20 incorporate within any such report, to the extent  
21 possible, any additional information on any credit  
22 card fee or charge that is available to the Board  
23 even though such information is not required by  
24 such amendment.

1       “(d) DEFINITIONS.—For purposes of this section, the  
2 term “insured depository institution” has the meaning  
3 given such term in section 3 of the Federal Deposit Insur-  
4 ance Act, and the term “insured credit union” has the  
5 meaning given such term in section 101 of the Federal  
6 Credit Union Act.”.

7               (2) AMENDMENT TO THE TRUTH IN LENDING  
8 ACT.—

9               (A) IN GENERAL.—Paragraph (1) of sec-  
10 tion 136(b) of the Truth in Lending Act (15  
11 U.S.C. 1646(b)(1)) is amended to read as fol-  
12 lows:

13              “(1) COLLECTION REQUIRED.—The Board shall  
14 collect, on a semiannual basis, from a broad sample  
15 of financial institutions which offer credit card serv-  
16 ices, credit card price and availability information  
17 including—

18                      “(A) the information required to be dis-  
19 closed under section 127(c) of this chapter;

20                      “(B) the average total amount of finance  
21 charges paid by consumers; and

22                      “(C) the following credit card rates and  
23 fees:

24                              “(i) Application fees.

1                   “(ii) Annual percentage rates for cash  
2                   advances and balance transfers.

3                   “(iii) Maximum annual percentage  
4                   rate that may be charged when an account  
5                   is in default.

6                   “(iv) Fees for the use of convenience  
7                   checks.

8                   “(v) Fees for balance transfers.

9                   “(vi) Fees for foreign currency con-  
10                  versions.”.

11                  (B) EFFECTIVE DATE.—The amendment  
12                  made by subparagraph (A) shall take effect on  
13                  January 1, 2003.

14                  (3) REPEAL OF SUNSET PROVISION.—Section  
15                  108 of the Riegle-Neal Interstate Banking and  
16                  Branching Efficiency Act of 1994 is hereby repealed.

17                  (4) NONAPPLICABILITY OF OTHER PROVISION  
18                  OF LAW.—Section 3003(a)(1) of the Federal Re-  
19                  ports Elimination and Sunset Act of 1995 (31  
20                  U.S.C. 1113 note) shall not apply to any report re-  
21                  quired to be submitted under section 1002(b) of Fi-  
22                  nancial Institutions Reform, Recovery, and Enforce-  
23                  ment Act of 1989.

1 (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
 2 Section 19 of the Federal Reserve Act (12 U.S.C. 461)  
 3 is amended—

4 (1) in subsection (b)(4) (12 U.S.C. 461(b)(4)),  
 5 by striking subparagraph (C) and redesignating sub-  
 6 paragraphs (D) and (E) as subparagraphs (C) and  
 7 (D), respectively; and

8 (2) in subsection (c)(1)(A) (12 U.S.C.  
 9 461(c)(1)(A)), by striking “subsection (b)(4)(C)”  
 10 and inserting “subsection (b)”.

11 **SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXI-**  
 12 **BILITY IN SETTING RESERVE REQUIRE-**  
 13 **MENTS.**

14 Section 19(b)(2)(A) of the Federal Reserve Act (12  
 15 U.S.C. 461(b)(2)(A)) is amended—

16 (1) in clause (i), by striking “the ratio of 3 per  
 17 centum” and inserting “a ratio not greater than 3  
 18 percent (and which may be zero)”; and

19 (2) in clause (ii), by striking “and not less than  
 20 8 per centum,” and inserting “(and which may be  
 21 zero),”.

22 **SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

23 (a) IN GENERAL.—Section 7(b) of the Federal Re-  
 24 serve Act (12 U.S.C. 289(b)) is amended by adding at  
 25 the end the following new paragraph:

1           “(4) ADDITIONAL TRANSFERS TO COVER IN-  
2       TEREST PAYMENTS FOR FISCAL YEARS 2002  
3       THROUGH 2006.—

4           “(A) IN GENERAL.—In addition to the  
5       amounts required to be transferred from the  
6       surplus funds of the Federal reserve banks pur-  
7       suant to subsection (a)(3), the Federal reserve  
8       banks shall transfer from such surplus funds to  
9       the Board of Governors of the Federal Reserve  
10      System for transfer to the Secretary of the  
11      Treasury for deposit in the general fund of the  
12      Treasury, such sums as are necessary to equal  
13      the net cost of section 19(b)(12) in each of the  
14      fiscal years 2002 through 2006.

15          “(B) ALLOCATION BY FEDERAL RESERVE  
16      BOARD.—Of the total amount required to be  
17      paid by the Federal reserve banks under sub-  
18      paragraph (A) for fiscal years 2002 through  
19      2006, the Board of Governors of the Federal  
20      Reserve System shall determine the amount  
21      each such bank shall pay in such fiscal year.

22          “(C) REPLENISHMENT OF SURPLUS FUND  
23      PROHIBITED.—During fiscal years 2002  
24      through 2006, no Federal reserve bank may re-  
25      plenish such bank’s surplus fund by the amount

1 of any transfer by such bank under subpara-  
2 graph (A).”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
4 Section 7(a) of the Federal Reserve Act (12 U.S.C.  
5 289(a)) is amended by adding at the end the following  
6 new paragraph:

7 “(3) PAYMENT TO TREASURY.—During fiscal  
8 years 2002 through 2006, any amount in the sur-  
9 plus fund of any Federal reserve bank in excess of  
10 the amount equal to 3 percent of the paid-in capital  
11 and surplus of the member banks of such bank shall  
12 be transferred to the Secretary of the Treasury for  
13 deposit in the general fund of the Treasury.”.

14 **SEC. 7. RULE OF CONSTRUCTION.**

15 In the case of an escrow account maintained at a de-  
16 pository institution in connection with a real estate  
17 transaction—

18 (1) the absorption, by the depository institution,  
19 of expenses incidental to providing a normal banking  
20 service with respect to such escrow account;

21 (2) the forbearance, by the depository institu-  
22 tion, from charging a fee for providing any such  
23 banking function; and

24 (3) any benefit which may accrue to the holder  
25 or the beneficiary of such escrow account as a result

1 of an action of the depository institution described  
2 in subparagraph (1) or (2) or similar in nature to  
3 such action,  
4 shall not be treated as the payment or receipt of interest  
5 for purposes of this Act and any provision of Public Law  
6 93-100, the Federal Reserve Act, the Home Owners' Loan  
7 Act, or the Federal Deposit Insurance Act relating to the  
8 payment of interest on accounts or deposits at depository  
9 institutions.

Passed the House of Representatives April 9, 2002.

Attest:

JEFF TRANDAHL,

*Clerk.*